

Applicants' Response to First Notification of Non-Compliant Amendment

On January 18, 2007, Applicants received a first Notification of Non-Compliant Amendment for an Amendment filed on December 5, 2006 in the present Application. On February 8, 2007, the Applicants provided a Response to the first Notification of Non-Compliant Amendment in which Applicants amended the "New Claims" section of the December 5, 2006 Amendment to fully comply in good faith with the Examiner's instructions. On April 5, 2007, the Examiner has sent a second Notification of Non-Compliant Amendment to the Applicants for the same December 5, 2006 Amendment. Applicants respectfully traverse this second Notification of Non-Compliant Amendment.

On the Continuation Sheet of the second Notification of Non-Compliant Amendment, the Examiner quotes MPEP 714.02 which states that "*the reply must present arguments pointing out the specific distinctions believed to render the claims, including any new claims, patentable over any applied references*" (emphasis added). For at least the following reasons, Applicants submit that their Response to the first Notification of Non-Compliant Amendment was fully compliant with the requirements of MPEP 714.02.

In their amended "New Claims" section, Applicants explicitly provided affirmative "*arguments*" for each of the nine new claims, as required by MPEP 714.02. In particular, Applicants expressly argued for each new claim that "*the cited references fail to teach. . . .*" Applicants submit that arguing the complete

absence of a particular limitation in cited references is a well-established and acceptable argument for patentability in patent prosecution proceedings.

On the Continuation Sheet of the second Notification of Non-Compliant Amendment, without providing any specific explanation for the statement, the Examiner cursorily states that “[t]he blanket statements by Applicant . . . does not equate” to a pointing out of the specific distinctions believed to render the claims patentable. Applicants respectfully traverse. In the amended “New Claims” section, Applicants clearly points out the “*specific distinctions*” that render each of the nine new claims patentable, as required by MPEP 714.02. In particular, Applicants have expressly quoted specific claim language from each of the nine new claims to unambiguously identify the specific patentable subject matter.

Applicants further submit that MPEP 714.02 only requires the Applicants to point out specific distinctions that are “*believed*” to render the claims patentable. Applicants submit that the amended “New Claims” section was provided by Applicants with a bona fide belief that the new claims each contain respective identified patentable subject matter.

In addition, MPEP 714.02 requires pointing out specific distinctions believed to render the claims patentable “*over any applied references*” (emphasis added). Since the nine new claims have not yet been examined, Applicants submit that there currently are no “applied references” with respect to the nine new claims. However, there are presently seven different references

cited by the Examiner against other claims in the present case. Applicants submit that requiring the Applicants to guess which of the seven cited references the Examiner might potentially cite against the new claims is unduly burdensome, indefinite, and unfair to Applicants.

On the Continuation Sheet of the second Notification of Non-Compliant Amendment, the Examiner further states that “*Applicant is further instructed to clearly and concisely indicate support for each of the amended limitations made.*” The Examiner then vaguely cites 35 U.S.C. 112 and MPEP 714.02 and 2173 in their entirety as support for these instructions. After review of each of the cited authorities, Applicants find no rule that requires Applicants to routinely “indicate support” for all amended limitations.

The only related information found was a citation to MPEP 2163.06 which discusses amendments to the “abstract, specification, or drawings” and a “reply to an objection or rejection based on 35 U.S.C. 112, first paragraph.” Applicants submit that neither of the foregoing situations is applicable in the present instance. Applicants therefore respectfully request the Examiner to provide specific citations to any authority for these instructions to “indicate support.”

On the Continuation Sheet of the second Notification of Non-Compliant Amendment, the Examiner concludes by stating that “[c]ontinued failure to adhere to the practices and procedures . . . may result in future amendments being held not fully responsive or the reply not being considered a bona fide

attempt” For at least the reasons discussed above, Applicants respectfully submit that their Response to the first Notification of Non-Compliant Amendment was “fully responsive” and was also a “bona fide attempt” by Applicants to advance the present Application.

However, in order to be “fully responsive” to the present second Notification of Non-Compliant Amendment, Applicants herewith submit the attached edited “New Claims” section in good faith to effectively advance the prosecution of the present Application. The attached “New Claims” section is intended as a replacement for the “New Claims” section found on page 41 of the original Response to Office Action filed by Applicants on December 5, 2006. For all the foregoing reasons, Applicants therefore respectfully request the Examiner to promptly perform a “bona fide” examination of the new claims to thereby “advance the application” in an expeditious and appropriate manner.

Please replace the sole paragraph entitled "New Claims" found on page 41 of the Response to Office Action filed on December 5, 2006 with the following substitute paragraphs.

New Claims

The Applicants herein submit additional claims 48-56 for consideration by the Examiner in the present Application. The new claims 48-56 recite specific detailed embodiments for implementation and utilization of Applicants' invention, as disclosed and discussed in the Specification. Applicants submit that newly-added claims 48-56 contain a number of limitations that are not taught or suggested in any of the cited references by Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky.

In particular, Applicants submit that Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky fail to teach "wherein said data destination includes an Internet-based image service website," as recited in dependent claim 48, or "wherein said data destination includes an Internet service provider," as recited in dependent claim 49. Support for the limitations of claim 48 may be found in the Specification, for example, on page 14, and support for the limitations of claim 49 may be found in the Specification, for example, on page 14.

Applicants further submit that the Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky fail to teach “wherein said data destination includes a photo processing station,” as recited in dependent claim 50, or “wherein said data destination includes a network server computer,” as recited in dependent claim 51. Support for the limitations of claim 50 may be found in the Specification, for example, on page 14, and support for the limitations of claim 51 may be found in the Specification, for example, on page 13.

Applicants also submit that Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky fail to teach “wherein said identification information includes a camera identifier and a user account number,” as recited in dependent claim 52, or “wherein said identification information includes a destination routing number,” as recited in dependent claim 53. Support for the limitations of claim 52 may be found in the Specification, for example, on page 17, and support for the limitations of claim 53 may be found in the Specification, for example, on page 12.

In addition, Applicants submit that Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky fail to teach “wherein said transfer manager transfers said data to a host computer via a Universal Serial Bus connection,” as recited in dependent claim 54, or “wherein said imaging device wirelessly receives status information and control information from an external device,” as recited in dependent claim 55. Support for the limitations of claim 54 may be found in the Specification, for example, on page 13, and support for the

limitations of claim 55 may be found in the Specification, for example, on page 13.

Finally, Applicants submit that Allen, Tsubaki, Hansen, Strandwitz, Scorse, Callaghan, and Kanevsky fail to teach “wherein a plurality of peripheral devices each separately utilize additional transfer managers to perform respective data transfer procedures to provide corresponding transfer data to said data destination, at least some of said plurality of peripheral devices not being implemented as camera devices,” as recited in dependent claim 56. Support for the limitations of claim 56 may be found in the Specification, for example, on page 17.

With further regard to new dependent claims 48-56, Applicants submit that dependent claims 48-56 are directly dependent from independent claim 21, and therefore dependent claims 48-56 incorporate the various limitations of independent claim 21. Applicants have argued elsewhere that the limitations of independent claim 21 are not identically taught or suggested. Various arguments for the specific patentable limitations/distinctions in independent claim 21 are discussed on page 21-23 of the present Response to Office Action, and are incorporated here by reference.

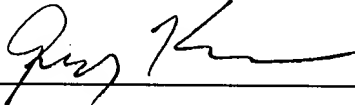
Such “specific distinctions” include, but are not limited to “*a predetermined threshold amount that is not subject to specific threshold-selection limitations*” and “*said transfer manager automatically erasing said data from said data buffers only after said data is successfully transferred to said data*

destination.” For at least the foregoing reasons, Applicants submit that the limitations of these dependent claims 48-56, when viewed through or in combination with the limitations of the independent claim 21, are also not identically taught or suggested.

For all the foregoing reasons, Applicants therefore respectfully request the Examiner to promptly perform a “bona fide” examination of the new claims 48-56 to thereby “advance the application” in an expeditious and appropriate manner.

Respectfully Submitted,

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